

REMARKS

This Response is submitted in reply to the non-final Office Action mailed on July 20, 2006. A petition for a one month extension of time is submitted herewith. The Director is authorized to charge \$120.00 for the petition and any additional fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 112701-584 on the account statement.

Claims 1 and 6-21 are pending in this application. Claims 2-5 were previously canceled. In the Office Action, Claims 1 and 6-21 are rejected under 35 U.S.C. §103. For at least the reasons set forth below, Applicants respectfully submit that the rejection should be withdrawn.

In the Office Action, Claims 1 and 6-21 are rejected under 35 U.S.C. §103(a) as being unpatentable over CA Patent No. 950750 to Hegadorn et al. ("*Hegadorn*"). Applicants believe this rejection is improper and respectfully traverse it for at least the reasons set forth below.

Independent Claim 1 recites, in part, a biscuit mass comprising a mixture consisting essentially of particles of baked biscuit and at least one fat, wherein the mixture contains 20 to 60% by weight of the biscuit particles and 40 to 80% by weight of the fat. Independent Claim 16 recites, in part, a process for manufacturing a composite frozen confection comprising bringing an ice confectionery and a biscuit mass consisting essentially of particles of baked biscuit and at least one fat into contact to form the composite confection. In contrast, Applicants respectfully submit that *Hegadorn* teaches away from the present claims and that all of the claimed elements are not taught or suggested by *Hegadorn*.

An advantage of an embodiment of the present invention is to provide a biscuit mass that looks like a biscuit at -10 °C or below, but is liquid from 15 °C or above, and which can be processed with an ice confectionery as a coating, core or inclusion. For example, the biscuit mass consists essentially of a mixture of baked biscuit particles and a fat and maintains its biscuit-like consistency on storage at low temperatures and consumption.

In view of the advantages of the present invention, Applicants respectfully submit that *Hegadorn* teaches away from the present claims. First, *Hegadorn* is entirely directed to a mix used for a pre-baked crust that simulates a baked pie crust and is suitable for baking to form a harder crust. See, *Hegadorn*, page 2, lines 15-21. For *Hegadorn*'s mix to be suitable for baking, *Hegadorn* teaches using a higher amount of pastry crumbs, a lower amount of fat and preferably

a binder (to keep food components together), which distinguishes it from the present invention. See, *Hegadorn*, page 5, lines 8-12. Moreover, *Hegadorn* is completely unconcerned with a biscuit mass capable of being used at lower temperatures (e.g. freezing) in a composite ice confectionery, which has different mixture requirements. As a result, *Hegadorn* teaches away from the present invention, and one having ordinary skill in the art would not be motivated to arrive at the present claims in view of *Hegadorn*.

Applicants also respectfully submit that *Hegadorn* fails to disclose or suggest every element of the present claims. For example, *Hegadorn* fails to disclose or suggest a biscuit-like mass comprising a mixture consisting essentially of particles of baked biscuit and at least one fat, wherein the mixture contains 20 to 60% by weight of the biscuit particles and 40 to 80% by weight of the fat as required, in part, by Claim 1. *Hegadorn* also fails to disclose or suggest a process for manufacturing a composite frozen confection comprising bringing an ice confectionery and a biscuit mass consisting essentially of particles of baked biscuit and at least one fat into contact to form the composite confection as required, in part, by Claim 16. Instead, *Hegadorn* is entirely directed to making pre-baked pie crusts. See, *Hegadorn*, page 2, lines 4-9.

For the reasons discussed above, *Hegadorn* does not teach, suggest, or even disclose the present claims, and thus, fails to render the claimed subject matter obvious for at least these reasons.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claims 1 and 6-21 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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